

A Public Hearing was held August 11, 2005 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to consider the creation of Extension No. 1 to Water District No. 3 in the Town. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Approximately (46) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard.

Hearing no comment the hearing was closed at 7:34 p.m.

Respectfully Submitted,

_____ Town Clerk

Public Hearing
August 11, 2005

A Public Hearing was held August 11, 2005 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to amend portions of the zoning law that relate to flag lots. The minimum lot size and area requirements have changed, requiring each flag lot have its own private driveway, and to impose additional requirements for private driveways, there is also a more specific form of application and procedures for approval among other things. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Approximately (46) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard.

Diane Gorzynski of 3291 East Blood Road asked what the lot size requirement is?

Leonard Janiga of 11121 Jamison Road spoke against the flag lot local law, questioning allowing two non conforming lots per parcel and allowing residents to apply for a variance for the 200 ft requirement between private driveways?

Mark Botticello of 2822 Two Rod Road questioned how many lots are allowed?

Diane Gorzynski of East Blood Road asked if applications would be limited, only so many each year?

Edward Riedel of 1602 Greenwood Terrace spoke against the flag lot law and felt there wasn't a lot of substance to the law.

Leonard Janiga of Jamison Road asked why the word prime farmland was removed from the law?

Mark Botticello agrees with the restrictions in the local law.

Diane Gorzynski of East Blood Road agreed with the new requirement for notice to property owners within 1000 ft. of proposed flag lot.

Jerry Hippert owns acreage on Eastwood Road and asked what his options would be with the new law?

Rick Janiga of 3111 Two Rod Road stated concerns over the 200 ft requirement between private driveways.

Tom Kufel of 11365 Tomarsue Drive concerned about the road spec for flag lots, he's concerned about safety for firetrucks and public utilites.

Mark Botticello of Two Rod Road agrees with the 200 ft between private driveways.

Jacob Argauer of 2326 Three Rod Road suggested discussing long driveway situations with the Fire Company.

Leonard Janiga of Jamison Road questioned the date for land splits, if it begins from when the ordinance changes?

Stanley Travis of 2095 Eastwood Road spoke against the flag lot law, he felt it is to broad and it gives the Town Board too much authority. He also questioned drainage issues.

Kathy Berger of 1810 Porterville Road felt the land owners should have rights too.

Mark Botticello of Two Rod Road stated that flag lots behind your home can lower your property value.

Stanley Travis of Eastwood Road spoke against the flag lot law.

Superivsor Foss responded to all the questions and after no further comment closed the meeting at 8:30 p.m.

Respectfully Submitted,

_____ Town Clerk

Regular Meeting
August 11, 2005

A Regular Meeting of the Marilla Town Board was held August 11, 2005 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

Communications were received and read from:

- a. The Town of Elma Forwarded signed petitions and a letter of request to install a four way stop at the intersection of Bullis Road and Four Rod Road.
- b. A request from Major Timothy Zak, a resident on Lyndale Lane who is stationed in Kuwait, he would like a Marilla flag to carry on his deployment and will then return it to the Town for proper display.

Committee Reports

Councilman Gertz reported for Highway Superintendent Dave Pierce that the County is reconstructing the drainage ditches at Four Rod Road and Parker Road.

Councilman Spanitz reported that the next Planning Board meeting will be August 18th at 7:00 p.m. The Library Board will be having a meeting on August 30th they are having a real dilemma with it being targeted to close.

Councilman Gertz reported that we are moving ahead with General Code Publishers, they are redoing our code book. I received a new disk and it can be viewed on line at www.generalcode.com and hopefully we will soon be linking it on our Town website.

Councilman Handley reported that there is one more concert for the Summer Series on August 21st. The Library will have a benefit concert where they will auction pies as a fundraiser. The average attendance at our concert series was approximately 125-150 people. He stated he is looking forward to next year. He also reported that the Town is trying to close on 3 properties for PACE by August 15th.

Councilman Specht reported that the car, truck and motorcycle show on July 31st was very successful, there were 480 entries. He wanted to thank the residents on Two Rod Road and West Ave that were inconvenienced. The Civil War Re-enactment was great and he was happy to be in charge of parking rather than delivering wood to the north and south.

Supervisor Foss reported that he is beginning the process to prepare the budget for 2006. I plan on having the budget numbers in place by early September. This year is going to be different as the county is trying to pass on their problems to the Towns and Villages. He hopes the situation with road patrols and libraries is resolved by the time he prepares the final numbers. Currently all accounts are in good shape and we should end the year with fund balances in all accounts. Actual cash positions are hard to estimate with the County holding our sales tax money for 3 months and slow paying other accounts due the Town.

He stated that the Civil War Re-enactment this past weekend that the Historical Society held was a very successful event and he congratulated them for the way they conducted the event and the great reports he got from participants and visitors. He was sure Hubert the Town Historian would have more to report later.

He stated the Town had its second car show the previous weekend and had a record turnout from entrants and the public as we had wall to wall people that Sunday afternoon. He thanked Chairwoman Karen Freeland and her committee for all the work they did and he understood that they raised more funds than last year for Mercy Flight. Mercy Flight needs all the help they can get and Marilla frequently uses their services when we have major accidents which need immediate transport.

He reported that he was sure everyone has read the papers where Giambra is going to try and take away our road patrols unless we pay for them on a use basis. His records show we already pay more than \$500,000 a year toward Sheriff operations. Currently there is one car that patrols three towns; Elma, Marilla and Wales. Records show that more than half of the Sheriffs budget is used in the city and other Towns who have police Departments use the Sheriff services as much as we do. He believes this to be a County function, has always been and it would be foolish to do it differently. He doesn't believe in running a cafeteria style government will ever work in Erie County. Why should Marilla pay for the Sheriff's department because we don't have our own police force. We now pay for Parks and we don't have a County Park and their new proposal of closing our library but still wanting us to pay the same share of taxes without a library. It's quite obvious that Giambra is pushing forward his regionalism ideas and is attempting to put a lot of stress on local Towns and Villages by unfairly putting a larger share of the tax load on rural Towns and Villages. He failed as a financial leader for the County by putting County Government close to bankruptcy. His whole team needs to resign and allow someone competent and who people have some faith in to run County Government.

He explained that he is concerned about our library's situation and has spent a lot of time and effort to get the County Library Board to listen to reason. He believes it fell on deaf ears even though the final cuts are not officially announced. He believes the Executive Director and the Erie County Library Board are doing exactly as Giambra tells them and we really never had a fair chance to keep our library open. The criteria used by the

director was designed to get the closings they wanted. No small or rural library had a chance and the criteria was so bad the results embarrassed them that they had to change their original announced closings to alleviate the South-towns massacre where almost all libraries in the South-towns were closed. The result of this will be the almost complete elimination of all children's reading programs and essentially make the libraries unavailable to senior citizens and handicapped people. Many have very little transportation and the cost of fuel is already prohibitive. In Marilla we currently have 158 children in reading programs that will be lost and this is only part of what our local libraries do. This City of Buffalo will have 7 libraries closed. Their Libraries are not used as much as our library but are every bit as important. What will be the choices for those children when their library is closed. A touchy subject is the East Aurora facility. They are not cut one dime. Mr. Mahaney's wife is the director at East Aurora and I wonder how the criteria allowed them to survive unscathed. It certainly looks tainted and leaves a bad taste and odor to the rest of the libraries that are being closed. He did respond to the letter from Supervisor Yarnell that we are not interested in closing our library. The records show Marilla to be one of the most efficient and cost effective libraries in the system but unfortunately these items were not considered. The Marilla Library received only 3/5 as much money on a population basis as East Aurora but in circulation and cost effectiveness were equal or better. From the above information it is quite obvious politics decided most closings and is just another example why the County is in trouble. He will include in the budget the funds to keep our library open and will attempt to put it up for referendum vote in November. He will be working closely with the Marilla Library Association and Barb Spanitz as they try to keep our library open. One thing to keep in mind is Central Library and Administration spend more than half of the tax dollars we pay and there are little or no children's programs at Central and it is very difficult for seniors to get to. He doesn't believe the problem is more money but better management of the money and where it is spent. Erie County cannot afford to spend any more money on downtown offices and administration staff. The latest proposal by Giambra to use tobacco money to build new hub libraries is very suspicious as he thought Giambra had used it all up financing the unbalanced budget for this year. Again we are being misled by Giambra and his people with promises they can't keep.

Open Board Presentations From the Public

Jacob Argauer from Three Rod Road asked how do we know our library money goes toward the Library and not into the General Fund?

Supervisor Foss responded that the money is paid to the County and is broken down separately and must go to the Library.

Gloria Specht of Eastwood Road commented that her grandson went to the summer program at the library and came in 2nd at the battle of the books at ECC. This is important to our Community.

Billy Peters of Eastwood Road asked what the amount is to operate our library?

Supervisor Foss responded approximately \$80,000.

Gloria Specht asked if we close our library do we still have to pay the County's library portion of tax?

Supervisor Foss responded yes.

Diane Gorzynski of East Blood Road asked if we could negotiate the tax money from Marilla?

Supervisor Foss responded no, it's based on assessment.

Old Business

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the minutes from the Regular Board Meeting held on 7/14/05. Motion Carried.

New Business

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the following resolution adopting the determination of non-significance of Local Law No. 2 of 2005:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law to amend the Zoning Law of the Town of Marilla to impose some limits on development of flag lots so that such development is consistent with good planning principles and with the Comprehensive Plan of the Town of Marilla; and

WHEREAS, the Town Board of the Town of Marilla is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, the proposed action appears to be an Unlisted Action and Regulations of the State Environmental Quality Review Act

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment; and be it further

RESOLVED, that the Town Board of the Town of Marilla hereby finds that the proposed responses inserted in Part II of the said Environmental Assessment Form are satisfactory and approved; and be it further

RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed to file the same in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

Roll Call Vote:	
Councilman Spanitz – Aye	Councilman Gertz – Aye
Councilman Specht – Aye	Councilman Handley – No
Supervisor Foss – Aye	

Motion: Councilman Handley moved to extend the moratorium on the flag lots.

Seeing no second motion died.

Councilman Spanitz stated that she felt a lot of thought and work had gone into this local law and she is happy with limiting the flag lots to 2 forever rather than 2 every 5 years. She felt the distance between private driveways should have been reduced but on the whole the changes are what's best for the Town.

Councilman Specht stated that the flag lot issues have been discussed, they felt by allowing only 50 ft between driveways would leave strips of weeded areas. It's not going to be a perfect law that is why we have the Zoning Board of Appeals.

Councilman Handley stated that he felt this is poor planning. On a lot 360 ft. by 900ft this law would allow 3 houses he questioned what kind of rural character is this? As of Tuesday the Town Board wanted to protect prime farmland, by what their interpretation of prime farmland was or their intent for development on it. As we were told at a previous Town Board Meeting; you can not prove intent, so how will this be enforceable if proper language for flag lots on prime farmland is not in the ordinance. Prime farmland is not going to be protected from flag lots. There was suppose to have been a meeting set up with Erie County Department of Environment and Planning , but it was pushed aside. There were only a handful of residents that wanted flag lots, the balance of the people that wanted them were builders. It was stated to one of the builders at the March 10th Meeting that he will not be unhappy with the changes, he is sure this is a big relief to the man that wants 8 or 9 flag lots! He asked what was the reply from Ag & Markets in reference to flag lots? So far this year there is approximately 10-14 new houses, land splits that will more than double that number and two golf courses; one that may not have to pay taxes because of its non profit status (something that was just brought to the Town Boards attention and waiting to be clarified by the Town Attorney) and the second golf course could have up to 65 homes. The sad part of all of this is the people of this Town will not realize what they have lost until it's gone. How many parcels will this effect in Town, the approximate number was 600-800, that's almost 1200-1600 houses as flag lots. Even if people do not build on them now they can still grandfather a lot of lots. He asks again what kind of planning is this and not to be fooled when your rural character is taken out from under you! He votes no to this ordinance and hope that the Board Members that are trying to save our rural character will do the same. The ordinance that was in place protected our farmland more than the new one. He believes there is a place for flag lots in town but this new law seems reckless.

Councilman Gertz stated that he respects what Councilman Handley has to say but it is a delicate balance and we can't keep saying no to everyone. He doesn't feel it would be in the best interest of the Town to extend the moratorium.

Supervisor Foss stated we haven't had a subdivision in town in 12 years. The proposed Golf Course has not been approved yet. The potential for 600-800 flag lots when in the last five years the average number of flag lots has been one per year was a ridiculous statement. We cannot legislate on rumors, he explained he was born and raised in this Town and he feels no one appreciates the rural character of this Town more then himself. We cannot shut the Town down totally. The purpose of the law is to allow use of some backland for building without creating the look of subdivisions. The 200 ft private driveway separation is to prevent driveways side by side and eliminate useless strips of land between roads. The law was written to give the Planning Board some flexibility in the placement of houses, keeping flag lots out of workable farmland and generally adhere to our master plan. This also gives the Planning Board and Town Board the right to request screening or other landscaping techniques that would make the flag lot more acceptable. He explained to Councilman Handley that a few years ago he built a new home and a storage facility which is not in the rural character of the Town but he felt at the time it was good for the Town and the Town Board approved it.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the following resolution for Local Law No. 2:

WHEREAS, The Town of Marilla has previously adopted its Zoning Law as Local No. 1 of 1999 which Zoning Law has been codified as part of the Code of the Town of Marilla; and

WHEREAS, the Zoning Law provisions relating to frontage requirements was amended by Local Law No. 1 of 2000; and

WHEREAS, the Town Board has determined that it would be in the best interest of the Town of Marilla to make further amendments to the provision governing flag lots to ensure that the development of flag lots is consistent with good development principles and with the Comprehensive Plan of the Town of Marilla and adopted a moratorium on flag lots pending modification of the provisions of the Code governing flag lots; and

WHEREAS, the Planning Board and Conservation Advisory Boards of the Town of Marilla have made proposed recommendations as

to changes and the Town Board has taken their comments under advisement and has come up with new provisions to govern flag lots in the Town of Marilla; and

WHEREAS, Councilman Specht introduced the following proposed "Local Law No. 2 of the Year 2005", entitled "Amendment to the Zoning Law of the Town of Marilla" and presented a copy to each member of the Board which reads as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 2 of the Year 2005 entitled "Amendment to the Zoning Law of the Town of Marilla".

SECTION 2. PURPOSE

The purpose of this local law is to amend the Zoning Law of the Town of Marilla to provide reasonable limits on the development of flag lots to make sure that they don't cause development that is inconsistent with good planning principals and the Comprehensive Plan of the Town of Marilla

SECTION 3. AMENDMENT OF PRIOR LAW

The Zoning Law of the Town of Marilla codified as Chapter 210 of the Code of the Town of Marilla and amended by Local Law No. 1 of 2000 is further amended by this Local Law No. 1 of the Year 2005 as follows:

1. Chapter 210 §210-8 is amended to add the following definitions:

FLAG LOT–A lot so shaped and designed that the main building site is set back from the public roadway on which it fronts and lacks the frontage requirements set forth in the Code for an approved building lot in the zoning district within which it is located and has access to the public roadway by way of a private driveway.

PRIVATE DRIVEWAY– A driveway that provides access to a Flag Lot which lacks the required frontage for an approved building lot in the zoning district within which it is located, which driveway must have a minimum width of 30 feet with a hard surface with a minimum width of 12 feet and which driveway may be either owned by the owner of the Flag Lot or the owner of the Flag Lot must have a permanent easement or right-of-way which provides access to the owner of the Flag Lot over the entire 30 foot minimum width of 30 feet.

2. Chapter 210 § 210-11 A. (3) (a) and (b) are amended to delete (b) and modify (a) to read as follows:

- (a) Every principal building, except buildings on approved Flag Lots, shall have access to a public road with a minimum width as proscribed for the zoning district within which it is located. (For rules and regulations governing Flag Lots see §210-11. A.)

3. Chapter 210 § 210-26. A. (3) and (4) are amended to read as follows:

- (3) Where the proposed use is farm-related, a single-family or two family residence, a single family residence to be constructed on an approved Flag Lot or accessory structures to single-family and two-family residences, the Building Inspector shall carefully consider the application for compliance with this chapter and may either issue or deny the permit applied for. When the application is for any other permitted use in any zone, the Building Inspector shall, prior to the issuance of any permit, refer one copy of such plans, drawings and statements to the Planning Board and the Conservation Advisory Board for review and recommendation. All proposals for permits within the C-O Conservation Overlay District shall be referred to the Planning Board for their recommendations, prior to the issuance of the permit.

- (4) All permit applications referred to the Planning Board shall be reviewed to determine the consistency of the proposed site development plan with the goals and objectives of the Town's Master Plan, that the proposed improvements are sufficient to adequately serve the proposed use, that adjacent properties are protected from potential negative impacts and that potential adverse environmental impacts are minimized.

4. A new provision to be codified as Chapter 210 § 210-11A shall be added which shall read as follows:

§210-11A. Flag Lots

A. Flag Lots shall be permitted in the Town of Marilla, provided that they meet all the requirements for a Flag Lot as set forth in this Section and provided that they comply with all other applicable provisions of the Code of the Town of Marilla;

- (1) Minimum width and area of Flag Lots. Each Flag Lot must have a minimum width of 300 feet and minimum depth of 300 feet with a minimum area of 90,000 square feet.
- (2) Minimum set back for any structure to be constructed on a Flag Lot shall be 100 feet as measured from the edge of the Flag Lot that is parallel to the public highway that provides access to said Flag Lot. This shall be deemed the front setback.
- (3) Minimum side and rear set back for any structure to be constructed on a Flag Lot shall be that required for the zoning district within which such Flag Lot is located.
- (4) No more than two separate flag lots shall be allowed to be created on any individual parcel of land as set forth in the official records of the Town of Marilla Building Department as of the effective date of this provision.
- (5) Flag Lots shall only be allowed for single family residential structures together with accessory structures. Multi-family dwellings (i.e., duplex, triplex, etc.) shall be prohibited.
- (6) Each Flag Lot shall have its own separate private driveway that connects the Flag Lot to the public highway, with shared private driveways not permitted.
 - a. Each private driveway shall have a minimum width of 30 feet with a hard surface of a minimum of 12 feet.
 - b. If title to the private driveway is not owned by the owner of the Flag Lot, there must be either an easement or right-of-way of record showing that the owner of the Flag Lot has right of access over the entire width of said easement or right-of-way, which easement shall indicate
 - (i) that such easement or right-of-way gives access to the owner of the Flag Lot over the entire width or such easement or right-of-way.
 - (ii) that the Town of Marilla shall have no responsibility for maintenance of such easement or right-of-way.
 - (iii) that maintenance of the private driveway shall be the sole responsibility of the owner of the Flag Lot with such maintenance to include normal upkeep, reconstruction, drainage, snowplowing and any other costs which may reasonably be associated with such private driveway.
 - (iv) that no certificate of occupancy shall be issued until the private driveway is installed.
 - c. No private driveway shall be located any closer than 200 feet from the nearest private driveway.
 - d. Any private driveway that is more than 300 feet in length must contain a turn around of sufficient size to accommodate fire trucks, ambulances and other emergency vehicles.

B. Procedure for approval of Flag Lot

- (1) Each applicant seeking approval of a Flag Lot shall complete the Flag Lot Application approved by the Town of Marilla, which Flag Lot application shall contain a site plan of the proposed Flag Lot and identify the location of all structures on adjoining parcels, and submit an original and five copies of the application to the Code Enforcement Officer of the Town of Marilla. If the application is not complete, such application shall be returned to the applicant. No further action shall be taken by the Town of Marilla until a complete application has been submitted and approved as complete by the Code Enforcement Officer.
- (2) Upon receipt of a complete application, the Code Enforcement Officer shall forward two copies of the completed application to the Planning Board for their review and comment, one copy of the completed application to the Town Board and one copy of the completed application to the Conservation Advisory Board.
- (3) Upon receipt of a completed application, the Planning Board shall place the matter on their agenda and notify the applicant of the date and time at which to appear before the Planning Board. The Planning Board shall discuss the application with the applicant and may require that the applicant submit additional information to the Planning Board if they determine that such additional information is necessary to properly review the request.
- (4) Upon completion of their review, the Planning Board shall submit their recommendations to the Town Board. Among its recommendations, the Planning Board may provide a recommendation that screening by use of hedges, trees or other applications to buffer the Flag Lot from the adjacent property. They may also suggest additional provisions designed to address specific potential hardships to adjacent properties. The comments from the Planning Board must be submitted to the Town Board within thirty days following the appearance of the applicant before the Planning Board, or if the Planning Board has requested additional information from the applicant, within thirty days following the receipt of the additional information from the applicant.
- (5) The Conservation Advisory Board shall have thirty days from the date of receipt of their copies of the application to submit any comments or recommendations that they may have on the application to the Town Board.
- (6) Upon receipt of the recommendations from the Planning Board and the Conservation Advisory Board, the Town Board shall review the recommendations of both the Planning Board and the Conservation Advisory Board and schedule a public hearing on the proposed application. Written notice of the application for the proposed Flag Lot shall be mailed by regular mail to all property owners located within 1000 feet of the proposed Flag Lot and notice shall also be published in the Alden Advertiser and Elma Review, such mailing and publication to each be not less than 10 days before the public hearing.
- (7) Within thirty days following the Public Hearing, the Town Board shall either approve the application for a Flag Lot with whatever terms and conditions that it deems appropriate or deny such request. The Town Board may include specific requirements and/or conditions on any Flag Lot as a condition of approval, which conditions shall be set forth in the record. No certificate of occupancy shall be issued for any principal structure on a Flag Lot until the specific requirements or conditions imposed by the Town Board on the Flag Lot are satisfied.

SECTION 4. MISCELLANEOUS

This Local Law shall be deemed to supercede and repeal any other ordinance, code, or local laws to the extent that they are inconsistent herewith.

SECTION 5. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portion thereof.

SECTION 6. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Councilman Handley - No

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the following resolution adopting the determination of non-significance of Water District No. 3 extension:

WHEREAS, the Town Board of the Town of Marilla is considering the approval of Extension No. 1 to Water District No. 3 in the Town of Marilla; and

WHEREAS, the Town Board of the Town of Marilla is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, the proposed action appears to be an Unlisted Action pursuant to the Rules and Regulations of the State Environmental Quality Review Act

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment; and be it further

RESOLVED, that the Town Board of the Town of Marilla hereby finds that the proposed responses inserted in Part II of the said Environmental Assessment Form are satisfactory and approved; and be it further

RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed to file the same in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Councilman Handley - Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the following resolution:

WHEREAS, the Town Board of the Town of Marilla (herein called the "Town Board" and "Town", respectively), in the County of Erie, New York, has received a petition, dated July, 2005, pursuant to Section 191 of the Town Law, for the Establishment of Extension No. 1 (the "Extension") to the Water District No. 3 of the Town of Marilla, (hereinafter called the "District") which petition was signed by the owners of taxable real property situate in the proposed extension, owning 100 % of the taxable real property within the proposed extension including the signatures of resident owners owning 100% of the taxable real property owned by resident owners, as shown upon the latest completed assessment-roll of said Town, and was accompanied by a map, plan and report, dated July, 2005, prepared by Nussbaumer & Clarke, Inc., engineers duly licensed by the State of New York, for the extension of such water district to provide water service to the existing homeowners within the proposed extension as part of the district instead of as out of district customers of Water District No. 3, with no new water lines to be constructed because the existing water lines of Water District No. 3 already service the properties, which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, there shall be no cost to the Town for the proposed Extension;

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the Extension may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such Extension; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, a duly executed Environmental Assessment Form has been filed in the office of the Town Clerk; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on the 11th day of August, 2005, commencing at 7:30 p.m. (Prevailing Time), at said Town Hall, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to the Extension; and

WHEREAS, certified copies of such Order Calling Public Hearing and posted pursuant to the Town Law with notice being duly sent to all property owners within such Extension.

NOW, THEREFORE, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF MARILLA, IN THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

- (a) the Petitions received have been signed and acknowledged, proven or authenticated as required by law, and are otherwise sufficient;
- (b) the Notice of Public Hearing was published, posted and filed as required by Law with notice being given to all property owners with the proposed Extension, and is otherwise sufficient;
- (c) all the property and property owners included in the proposed

Extension hereinabove referred to in the recitals hereof are benefited thereby;

(d) all the property and property owners benefited are included within the limits of the proposed Extension;

(e) it is in the public interest to extend the District.

Section 2. The establishment of the Extension is hereby approved, as hereinafter

described, and said Extension shall be designated and known as Extension No. 1 to Water District No. 3, in the Town of Marilla, and shall be bounded and described as follows:

(INSERT DESCRIPTION OF EXTENSION)

ALL THAT PLOT OF LAND situated in the Town of Marilla, County of Erie and State of New York, being parts of Lots Numbers one hundred thirty-four (134) and one hundred thirty-five (135), Township ten (10), Range five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road at its intersection with the south line of lands conveyed to Timothy Ferrill by deed recorded in Liber 65 of Deeds a page 96 in the Erie County Clerk's Office; running thence westerly along the south line of said Ferrill's lands, two thousand five hundred ninety-three (2593) feet to a point in the west line of said Lot Number one hundred thirty-four (134); thence southerly along the west line of said Lots Numbers one hundred thirty-four (134) and one hundred thirty-five (135), five hundred twenty-seven and four tenths (527.4) feet to a point; thence easterly at an interior angle of $92^{\circ} 02'$, seven hundred ninety and sixty-one hundredths (790.61) feet to the southwest corner of lands conveyed to John J. Bobeck by deed recorded in the Erie County Clerk's Office in Liber 10064 of Deeds at page 326; thence northerly at an interior angle of $88^{\circ} 13' 40''$ and along the west line of lands of said Bobeck and said line continuing northerly, three hundred seventy-seven and four tenths (377.4) feet to a point; thence easterly at an exterior angle of $88^{\circ} 13' 40''$, one thousand eight hundred (1800) feet to a point in the center line of Four Rod Road; thence northerly along the center line of said road, said line also being the easterly line of Lot Number one hundred thirty-four (134), one hundred fifty (150) feet to the point or place of beginning, containing fifteen and seven hundred sixty-two thousandths (15.762) acres more or less.

AND

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Marilla, County of Erie, and State of New York, being part of Lot No. one hundred thirty-four (134), Township ten (10), Range five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road, said center line also being the east line of Lot No. one hundred thirty-four (134), distant thirty-six and sixty-three hundredths (36.63) feet north of the south line of Lot No. one hundred thirty-four (134), said point of beginning also being three hundred twenty-five (325) feet south from the southeast corner of lands conveyed to Timothy Ferrill by deed recorded in the Erie County Clerk's Office in Liber 65 of Deeds at page 96; thence northerly along the center line of Four Rod Road, a distance of one hundred seventy-five (175) feet; thence westerly at an interior angle of $91^{\circ} 46' 20''$, a distance of one thousand eight hundred (1800) feet; thence southerly at an interior angle of $88^{\circ} 13' 40''$ a distance of one hundred seventy-five (175) feet to the northwest corner of lands conveyed to John J. Bobeck by deed recorded in the Erie County Clerk's Office in Liber 10064 of Deeds at page 326; thence easterly at an interior angle of $91^{\circ} 46' 20''$ and along the north line of lands conveyed to said Bobeck, one thousand eight hundred (1800) feet to the point or place of beginning.

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate in the Town of Marilla, County of Erie and State of New York, known and

distinguished as the north part of Lot Number Ninety-Nine (99) and Township Number (10) and in the Fifth (5) Range of Townships, being a part of a tract of land called the Buffalo Creek Reservation. Bounded and described as follows; Commencing at the northwest corner of said Lot No. 99; thence easterly forty chains and thirty-two links (40.32) along the line of lots between said Lot No. 99 and Lot No. 100 and to the northeast corner of said Lot No. 99; Thence south along the east line of said Lot No. 99 thirteen chains and ninety-eight links (13.98); thence westerly forty chains and ten and one half links (40.105) to a point on the west line of said lot thirteen chains and eighty-eight links (13.88) south from the northwest corner of said lot; thence north along the west line of said Lot No. 99 thirteen chains and eighty-eight links (13.88) northerly to the northwest corner of said Lot No. 99 to the place of beginning, containing Fifty-six acres of Land be the same more or less.

Excepting and reserving that portion of premises as recorded in the Erie County Clerk's Office in Liber 7819 of deeds at page 307.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Marilla, County of Erie and State of New York, being part of Lots Numbers One Hundred Thirty-four (134) and One Hundred Thirty-five (135), Township Ten (10), Range Five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road, said center line also being the east line of Lots Numbers One Hundred Thirty-four (134) and One Hundred Thirty-five (135), distant One Hundred Thirty and fifty hundredths (130.50) feet south of the north line of Lot Number One Hundred Thirty-Five (135), said point of beginning being the northeasterly corner of lands conveyed to David L. Dietl and Donna Rae his wife by deed recorded in the Erie County Clerk's Office in Liber 9836 of Deeds at Page 152, thence westerly at an exterior angle of 84° 13' a distance of Three Hundred Fifty (350) feet; thence continuing westerly at an interior angle of 172° 26' 40" a distance of One Thousand Four Hundred Fifty-one and seventy-nine hundredths (1,451.79) feet; thence northerly parallel with the center line of Four Rod Road a distance of Two Hundred Two and forty-one hundredths (202.40) feet; thence easterly at an interior angle of 88° 13' 40" a distance of One Thousand Eight Hundred (1,800) feet to a point in the center line of Four Rod Road distance One Hundred Sixty-seven and thirteen one-hundredths (167.13) feet northerly from the point of beginning; thence southerly along the center line of Four Rod Road a distance of One Hundred Sixty-seven and thirteen one-hundredths (167.13) feet to the point of beginning

SBL: 157.00-3-18.12

Section 3. There shall be no cost to the Town for the proposed Extension.

Section 4. The permission of the State Comptroller is not required with respect to the Extension because the estimated cost of the Extension to the Typical Property (as defined in the Town Law) of \$506 is not above the Average Estimated Costs to the Typical Properties for the establishment of similar types of districts or extensions, as computed by the State Comptroller

Section 5. The Town Clerk is authorized and directed within ten (10) days after the adoption of this resolution to record a copy of this Final Order in the Erie County Clerk's Office and to file certified copies thereof, in duplicate, in the office of the State Department of Audit and Control at Albany, New York

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Councilman Handley - Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Gertz to approve the following resolution:

WHEREAS, the Office of the Erie County Sheriff has been providing exemplary and dependable service to the citizens of the Town of Marilla and Erie County since 1821; and

WHEREAS, the Office of the Sheriff is the oldest office under the system of common law in the United States and is an integral part of the government of the State of New York; and

WHEREAS, as the oldest constitutional law enforcement officer of the County, the Sheriff is charged with maintaining the peace of all municipalities within his jurisdiction, the care and custody of persons pending court action, as well as those sentenced to less than one year in jail, the security of the courts and service and enforcement of civil process; and

WHEREAS, over these 184 years, the Erie County Sheriff's Road Patrol Services has lost 4 deputies in the line of duty while serving the citizens of Erie County; and

WHEREAS, over the years as some local towns and villages grew in population, they voluntarily opted to provide enhanced law enforcement services for their citizens in the form of local police departments to provide dedicated service and enhanced response times to their citizens and to fund such services by levying additional taxes on their residents; and

WHEREAS, the 15 towns in Erie County without local police departments have elected to limit the level of police services to the level that the Sheriff's Road Patrol service provides and receive Sheriff's Road Patrol services identical to the services provided in virtually every other county in New York State; and

WHEREAS, the 15 towns that receive Sheriff's Road Patrol services are predominantly rural communities that do not receive many county services but they contribute approximately \$38 million in combined county taxes; and

WHEREAS, the County Executive proposes to eliminate the Erie County Sheriff's Road Patrol, the first and oldest law enforcement agency in the history of Erie County, unless the towns receiving the services agree to pay an additional amount to Erie County for such services; and

WHEREAS, the New York State Police have gone on record stating that they cannot provide additional personnel to cover the calls that have been handled by the Erie County Sheriff's Office; and

WHEREAS, because of Homeland Security concerns and the threat of terrorism, it is imperative that Erie County government provide adequate funding for its local law enforcement agency, the Sheriff's Department, to serve and protect its residents; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That before the Executive Branch looks to eliminate Sheriff's Road Patrol, it should first look into the costs of other services that it is providing elsewhere that do not benefit the Town of Marilla and the 14 other towns that receive Sheriff's Road Patrol services to determine whether such services are necessary and whether the recipients of such services should contribute towards the cost of such services and to look at areas of the budget where waste can be eliminated including the funding of patronage positions.
2. That the Town Board believes that the residents of the 15 towns receiving

Sheriff's Road Patrol services are already contributing their fair share towards funding the cost of Erie County government, including the provision of Sheriff's Road Patrol services, which services generally involve sharing one or two patrol cars between 4 and 5 towns and opposes the imposition of any fees on the 15 towns receiving Sheriff's Road Patrol services.

3. That the Town Board directs that the Town Clerk send a certified copy of this resolution to Erie County Executive Joel Giambra, the Erie County Legislatures at their district offices, County Comptroller Jim Hartman, Sheriff Timothy Howard and the Town Supervisors of the Towns of Colden, Alden, Clarence, Elma, Newstead, Wales, Holland, Sardinia, Boston, Brant, North Collins, Collins, Concord and the Mayors of the Village of Springville and Alden.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Marilla held on August 11, 2005, the results of which were as

Roll Call Vote:

Councilman Spanitz – Aye
Councilman Specht – Aye
Supervisor Foss - Aye
Motion Carried.

Councilman Gertz – Aye
Councilman Handley – Aye

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the following resolution:

WHEREAS, the Town Board of the Town of Marilla fully supports the Civil War Re-enactment and was extremely pleased at the way it was run this year; and

WHEREAS, the Town Board was advised that in addition to the normal Civil War Re-Enactment activities, as part of the Re-Enactment activities, the Town of Marilla had the pleasure of hosting an additional special event, the wedding of David Peglew and Dottie Hickok which was performed during the Re-Enactment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF MARILLA AS FOLLOWS:

Section 1. That the Town Board wishes to offer it congratulations and the best of luck to David Peglew and Dottie Hickok upon their marriage.

Section 2. That the Town Board further wants to wish the newlyweds the best of luck in their marriage and invite them to return to the Town of Marilla for future Re-Enactments or just to revisit the Town of Marilla.

Section 3. This resolution shall take effect immediately and the Town Clerk is hereby directed to send a certified copy of this resolution to David Peglew and Dottie Hickok.

Roll Call Vote:

Councilman Spanitz – Aye
Councilman Specht – Aye
Supervisor Foss - Aye
Motion Carried.

Councilman Gertz – Aye
Councilman Handley – Aye

Motion: Councilman Spanitz moved, seconded by Councilman Specht to set the date for the public hearing on Local Law No.3 for the year 2005 entitled “Local Law Amending the Sign and Billboard Regulation of the Town of Marilla” for September 8, 2005 at 7:30 p.m. at the Marilla Town Hall 1740 Two Rod Road, Marilla, NY 14102. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to authorize payment of \$500 to “Erie Mounted Division Inc.” for the security at the Civil War Re-enacted. Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that the Erie County Water Authority informed Bennington and Cowlesville that they must submit plans to Marilla for review before they would accept their application.

Building Inspector John Fronczek submitted a written report with 6 building applications received with fees totaling \$570.00, 6 building permits issued with a total value of \$235,450.00, 27 inspections were made and 0 complaints were received for the month of July 2005. The Code Enforcement log indicates a total 175 activities.

Planning Board minutes are posted and they will be meeting on Thursday August 18, 2005 at 7:00 p.m.

The Conservation Advisory minutes have been received and posted.

Town Historian Hubert Kutter reported that the Civil War Re-enactment was very successful, he thanked Historical Society members and president Mary Beth Serafin for all their hard work. He also thanked the Town Board and the Highway Department for their help. This week the Historical Society has an exhibit at the Erie County Fair, he thanked Cindy Petriner for setting up the display which they received 3rd place out of 18 entries.

Open Board Presentations

Supervisor Foss thanked the Car Show Committee and the Historical Society for all their hard work.

Leonard Janiga of Jamison Road thanked Councilman Handley for his hard work on the CAB Board.

Gloria Specht of Eastwood Road thanked the Town Board for keeping Marilla Rural and suggested to residents if they don’t want any homes around them, then they should buy the property.

Rick Janiga of Two Rod Road felt that the 200 ft distance between private driveways would leave strips of land all over.

Gail Berger of Porterville Road stated that her and her husband own land on Porterville Road and felt that the owner should have the right to do what they want with property that they pay taxes on. She also commended our Highway and Sanitation Department.

Planning Board Member Judy Gillman stated that the Board worked a long time on the Flag Lot ordinances and felt they were fair.

Susan O’Brian of Two Rod Road asked where the houses are going to go?

Supervisor Foss responded that nothing has come before the Town Board.

Edward Riedel of Greenwood Terrace commended Mr. Handley and felt the Planning Board was not prepared when he had attended a meeting.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the claims as follows:

General Fund Claims, Vouchers 328-378	\$ 90,853.40
Highway Fund Claims, Vouchers 136-149	\$ 15,396.37
Special Districts	

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Sanitation (SR), Vouchers 77-84	\$ 18,864.59
Special Fire Vouchers	\$.00
Water District #2, Vouchers 22-23	\$ 2,634.19
Water District #3 Voucher 10	\$ 1,353.40
Water District #4 Voucher 9	\$ 817.40
Community Develop. PACE Voucher	\$.00
Community Develop. HUD	\$

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to adjourn the meeting at 9:25 p.m. Motion Carried.

Respectfully submitted,

_____Town Clerk	_____Supervisor
_____Councilman	_____Councilman
_____Councilman	_____Councilman